

## REMARKS

### A. Introduction

The remarks herein are responsive to the Office Action, mailed November 2, 2007. Applicant thanks the Examiner for the in person examiner interview conducted on November 1, 2007, and for conducting the telephone conference on December 4, 2007. Claims 1-11, 35-37, and 44-69 were pending, and these pending claims stand rejected. Applicant has amended Claims 1, 2, 10, 34, 47, 48, 55, 56, 57, 60, 63, 65, 68, 69, and canceled Claim 49. Additionally, applicant has added new Claims 70-80. Applicant respectfully submits that the claims are in condition for allowance.

### B. Amendment to the Claims

To expedite prosecution of this case, applicant has amended Claim 1. Support for the claim amendments may be found at least in paragraphs [0014], [0037], [0039], [0040], [0041], [0044], [0053], [0086], and in Figures 7 and 15. Accordingly, applicant submits that no new matter has been entered by way of the claim amendments.

Claims 2 and 10 depend from Claim 1, and Claims 55, 56, 57 depend from Claim 34, and Claims 68 and 69 depend from Claim 65, and the foregoing have been amended to clarify antecedent basis. Applicant submits that support for these amendments may be found at least in paragraphs [0014], [0037], [0039], [0040], [0041], [0044], [0053], [0086], and in Figures 7 and 15. Therefore applicant submits that no new matter has been submitted by way of these amendments.

To expedite prosecution of this case, applicant has amended Claim 34, 47, and 48. Support for the claim amendments may be found at least in paragraphs [0014], [0037], [0039], [0040], [0041], [0044], [0053], [0072], [0086], and in Figures 7 and 15. Accordingly, applicant submits that no new matter has been entered by way of the claim amendments.

To expedite prosecution of this case, applicant has amended Claim 60 and 63. Support for the claim amendments may be found at least in paragraphs [0014], [0037], [0039], [0040], [0041], [0044], [0053], [0072], [0086], and in Figures 7 and 15. Accordingly, applicant submits that no new matter has been entered by way of the claim amendments.

To expedite prosecution of this case, applicant has amended Claim 65. Support for the claim amendments may be found at least in paragraphs [0014], [0037], [0039], [0040], [0041],

[0044], [0053], [0072], [0086], and in Figures 7 and 15. Accordingly, applicant submits that no new matter has been entered by way of the claim amendments.

Applicant has also added Claims 70-80, and support for these claims may be found at least in paragraphs [0014], [0037], [0039], [0040], [0041], [0044], [0053], [0072], [0086], [0089], [0090], [0091], [0096], [0099], and in Figures 7 and 15. Accordingly, applicant submits that no new matter has been entered by the addition of these claims.

C. Claim Rejection Under 35 U.S.C. § 102(b)

1. Claims 1-11 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,507,727 to Henrick. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicant submits that Henrick does not anticipate or render obvious all the limitations of Claim 1.

Applicant respectfully submits that Henrick does not disclose, teach, or suggest, among other things, "receiving the broadcast segment using a communications device; extracting, using the communications device, at least a unique event identifier corresponding to a specific instance of the broadcast segment and user options associated with the broadcast segment, the unique event identifier being provided by a data manager, wherein the data manager is separate from the communications device; detecting, using the communications device, a selection by a user of the user options in response to the broadcast segment; extracting from the communications device a user identifier; creating, using the communications device, a data packet comprising at least the unique event identifier and the user identifier; and communicating the data packet to the data manager for responding to the data packet."

Rather Henrick teaches a method wherein, "The broadcast song is received and played by radio 103. If the user (i.e., [sic] the listener) wishes to purchase the song (or the album on which the song appears) for download, *the user navigates to Web server* 106 from his or her cell phone 104, authenticates himself or herself, and *identifies the station he or she is listening to*. The downloading service provided by Web server 106 then provides the user with a screen indicating the name of the song and album that he or she is listening to, as well as other information such as

the group name and information related to the band. The user may then indicate through cell phone 104 a desire to buy the song or album." See Henrick at col. 3, ln. 35-40 (emphasis added).

Therefore, applicant submits that Henrick fails to disclose, teach, or suggest all the limitations of Claim 1 and is allowable over the cited reference for at least the reasons set forth above. Claims 2-11, 44-47 and 50-52 depend from Claim 1, and therefore applicant respectfully submits that these claims are allowable for at least the same reasons as discussed above for Claim 1. Further, Claims 2-11, 44-47 and 50-52 are allowable for the additional unique combination of features disclosed therein.

2. Claims 34-37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,507,727 to Henrick. Applicant submits that Henrick does not anticipate or render obvious all the limitations of Claim 34.

Applicant respectfully submits that Henrick does not disclose, teach, or suggest, among other things, "providing at least one unique event identifier corresponding to a specific instance of the broadcast segment and at least one user option associated with the broadcast segment; broadcasting the at least one unique event identifier and the at least one user option associated with the broadcast segment over a data stream; receiving, using a broadcast receiver, the broadcast segment, the at least one unique event identifier, and the at least one user option associated with the broadcast segment; detecting a selection by a user of the at least one user option in response to the broadcast segment; transmitting, using the broadcast receiver, at least one data packet in response to the broadcast segment; receiving the at least one data packet from the broadcast receiver in response to the broadcast segment; extracting the at least one unique event identifier from the at least one data packet, wherein an identity of a broadcaster of the broadcast segment can be determined by comparing the at least one unique event identifier with a lookup table."

Rather Henrick teaches a method wherein, "The broadcast song is received and played by radio 103. If the user (i.e., [sic] the listener) wishes to purchase the song (or the album on which the song appears) for download, *the user navigates to Web server 106* from his or her cell phone 104, authenticates himself or herself, and *identifies the station he or she is listening to*. The downloading service provided by Web server 106 then provides the user with a screen indicating the name of the song and album that he or she is listening to, as well as other information such as

the group name and information related to the band. The user may then indicate through cell phone 104 a desire to buy the song or album.” See Henrick at col. 3, ln. 35-40 (emphasis added).

Accordingly, applicant submits that Henrick fails to disclose, teach, or suggest all the limitations of Claim 34 and is allowable over the cited reference for at least the reasons set forth above. Claims 35-37, 48 and 53-59 depend, either directly or indirectly, from Claim 34, and therefore applicant respectfully submits that these claims are allowable for at least the same reasons as discussed above for Claim 34. Further, Claims 35-37, 48, and 53-59 are allowable for the additional unique combination of features disclosed therein.

3. Claims 60-64 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,507,727 to Henrick. Applicant submits that Henrick does not anticipate or render obvious all the limitations of Claim 60.

Applicant respectfully submits that Henrick does not disclose, teach, or suggest, among other things, “configuring the communications device to extract at least the unique event identifier corresponding to the broadcast segment and at least one user option associated with the broadcast segment, the unique event identifier being provided by a data manager that is separate from the communications device; configuring the communications device to detect a selection by a user of the at least one user option in response to the broadcast segment; configuring the communications device to extract from the communications device a user identifier; configuring the communications device to create a data packet comprising at least the unique event identifier and the user identifier; and configuring the communications device to communicate the data packet to a server in response to detection of the selection by the user, wherein the server is configured to process the data packet.”

Rather Henrick teaches a method wherein, “The broadcast song is received and played by radio 103. If the user (i.e., [sic] the listener) wishes to purchase the song (or the album on which the song appears) for download, *the user navigates to Web server* 106 from his or her cell phone 104, authenticates himself or herself, and *identifies the station he or she is listening to*. The downloading service provided by Web server 106 then provides the user with a screen indicating the name of the song and album that he or she is listening to, as well as other information such as the group name and information related to the band. The user may then indicate through cell phone 104 a desire to buy the song or album.” See Henrick at col. 3, ln. 35-40 (emphasis added).

Accordingly, applicant submits that Henrick fails to disclose, teach, or suggest all the limitations of Claim 60 and is allowable over the cited reference for at least the reasons set forth above. Claims 61-64 depend, either directly or indirectly, from Claim 60, and therefore applicant respectfully submits that these claims are allowable for at least the same reasons as discussed above for Claim 60. Further, Claims 61-64 are allowable for the additional unique combination of features disclosed therein.

4. Claims 65-69 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,507,727 to Henrick. Applicant submits that Henrick does not anticipate or render obvious all the limitations of Claim 65.

Applicant respectfully submits that Henrick does not disclose, teach, or suggest, among other things, “determining at least one unique event identifier and any user options associated with the broadcast segment corresponding to a specific instance of the broadcast segment; receiving at least one data packet from a user device in response to the broadcast segment, wherein the user device automatically generates the data packet, and further wherein an identity of a broadcaster of the broadcast segment can be determined from the data packet; extracting the at least one unique event identifier from the at least one data packet, wherein the data packet further comprises at least a destination location for the response; compiling a summary of user responses based at least in part on the extracted unique identifier; and generating a report for a third party based on the summary of user responses.”

Rather Henrick teaches a method wherein, “The broadcast song is received and played by radio 103. If the user (i.e., [sic] the listener) wishes to purchase the song (or the album on which the song appears) for download, *the user navigates to Web server 106* from his or her cell phone 104, authenticates himself or herself, and *identifies the station he or she is listening to*. The downloading service provided by Web server 106 then provides the user with a screen indicating the name of the song and album that he or she is listening to, as well as other information such as the group name and information related to the band. The user may then indicate through cell phone 104 a desire to buy the song or album.” See Henrick at col. 3, ln. 35-40 (emphasis added).

Accordingly, applicant submits that Henrick fails to disclose, teach, or suggest all the limitations of Claim 65 and is allowable over the cited reference for at least the reasons set forth above. Claims 66-69 depend from Claim 65, and therefore applicant respectfully submits that

Appl. No. : 10/806,084  
Filed : March 22, 2004

these claims are allowable for at least the same reasons as discussed above for Claim 65. Further, Claims 66-69 are allowable for the additional unique combination of features disclosed therein.

Applicant submits that newly added Claims 70-73, which depend, either directly or indirectly, from Claim 65, are allowable over the prior art for at least the same reasons as set forth above for Claim 65 and are allowable for the additional unique combination of features disclosed therein.

5. Applicant submits that newly added Claims 74-80 are allowable over the prior art for at least the reasons as set forth above and are allowable for the additional unique combination of features disclosed therein. Applicant further submits that Henrick does not disclose all the claimed limitations.

D. Conclusion

Applicant respectfully submits that the claims are in condition for allowance. Furthermore, any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,  
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 4/2/2008

By: 

Thomas Y. Yee  
Registration No. 57,013  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404